

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

Amanda Perry,	)	
	)	
Plaintiff,	)	
	)	
v.	)	No. 17 C 7601
	)	
JTM Capital Management, LLC, a	)	Judge Gettleman
Delaware limited liability company	)	Magistrate Judge Gilbert
	)	
Defendant.	)	

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Theresa Mullery,	)	
	)	
Plaintiff,	)	
	)	
v.	)	No. 17 C 7769
	)	
JTM Capital Management, LLC, a	)	Judge Gettleman
Delaware limited liability company,	)	Magistrate Judge Gilbert
	)	
Defendant.	)	

**PLAINTIFFS' MOTION FOR RECONSIDERATION**

Plaintiffs, Amanda Perry ("Perry") and Theresa Mullery ("Mullery"), hereby move this Court, pursuant to Fed.R.Civ.P. Rule 60(b), to reconsider its Orders granting Defendant's motions to dismiss and dismissing the cases, without prejudice, for lack of personal jurisdiction (Perry, Dkt. 18, Mullery, Dkt. 19). In support of this Motion, Plaintiffs state:

1. Plaintiffs brought their Fair Debt Collection Practices Act ("FDCPA") suits against Defendant, JTM Capital Management, LLC ("JTM"). Plaintiff Perry is a citizen of South Carolina. (Perry, Dkt 1. at ¶3). Plaintiff Mullery is a citizen of New York. (Mullery, Dkt 1. at ¶3). JTM's principal place of business is Williamsville, New York, in the

Western District of New York. (Perry, Dkt 1-1, Mullery, Dkt 1-1).

2. JTM moved to dismiss Plaintiffs' claims pursuant to Fed.R.Civ.P. Rule 12(b)(2), 12(b)(3), and 12(b)(6). (Perry, Dkt. 8, Mullery, Dkt. 9). This Court dismissed Plaintiffs' claims for lack of personal jurisdiction over JTM. (Perry, Dkt. 18, Mullery, Dkt. 19).

3. Plaintiffs move this Court to reconsider its decision pursuant to Fed.R.Civ.P. Rule 60(b)(1). Upon motion, a court may relieve a party from its final judgment, order, or proceedings due to mistake, inadvertence, newly discovered evidence, or any other reason that justifies relief, see, Fed.R.Civ.P. 60(b)(1-6).

4. Where personal jurisdiction is lacking, the Court may dismiss the case or transfer it to another district where personal jurisdiction is proper. See, Cote v. Wadel, 796 F.2d 981, 984-85 (7th Cir. 1986).

5. The transfer statute provides that "for the convenience of parties and witnesses, in the interest of justice, a district court may transfer any civil action to any other district or division where it might have been brought." 28 U.S.C. § 1404(a).

6. Plaintiffs request that this Court, pursuant to 28 U.S.C. §1404, transfer their case to the Western District of New York, where JTM and Mullery reside, as was done in Price v. Schlee & Stillman, LLC, N.D.Ill. No. 1:16-cv-8020.<sup>1</sup>

7. Dismissal of Plaintiffs' claims will likely be fatal to the merits of their cases. Specifically, the one year statute of limitations pursuant to §1692k(d) may bar Plaintiffs from bringing their claims in another forum, see, Plummer v. Warren, 463 F. App'x 501, 502 (6th Cir. 2012)( "Courts grant equitable tolling sparingly. A petitioner bears the

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<sup>1</sup> In Price, the Court transferred the case to the Eastern District of Kentucky, see, attached Exhibit A at Dkt. 29, 30, and 40.

burden of showing that she is entitled to equitable tolling.”).<sup>2</sup> Therefore, it would be in the interest of justice to transfer these matters to the Western District of New York, so that the merits of Plaintiffs’ claims may be heard.

WHEREFORE, Plaintiffs respectfully request that this Court reconsider its orders dismissing these matters and transfer these matters to the Western District of New York.

Respectfully submitted,

Amanda Perry & Theresa Mullery

By: /s/ David J. Philipps  
One of the attorneys for Plaintiff

Dated: April 17, 2018

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<sup>2</sup> Defendant’s collection letter to Plaintiff Perry was dated March 4, 2017. (Perry, Dkt 1-4). Thus, the one-year statute of limitations ran on March 3, 2018. Defendant’s collection letter to Plaintiff Mullery was dated January 26, 2017. (Mullery, Dkt 1-4). Thus, the one-year statute of limitations ran on January 25, 2018.

**CERTIFICATE OF SERVICE**

I hereby certify that on April 17, 2017 a copy of the foregoing **Plaintiffs' Motion for Reconsideration** was filed electronically. Notice of this filing was sent to the following parties by operation of the Court's electronic filing system. The parties may access this filing through the Court's system.

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